

AMENDED IN SENATE APRIL 13, 2004

**SENATE BILL**

**No. 1707**

**Introduced by Senator Aanestad**

February 20, 2004

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An act to amend Section 53155 of, and to add Section 53159 to, the Government Code, relating to emergency response costs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1707, as amended, Aanestad. Emergency response costs.

Existing law provides that any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle, a boat or vessel, or a civil aircraft, caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate response, is liable for the expense of an emergency response by a public agency to the incident *up to \$1,000*.

This bill would provide that any person who intentionally, knowingly, and willfully enters into any area that is closed or has been closed to the public by competent authority for any reason *or that a reasonable person under the circumstances should have known was closed to the public*, is liable to specified entities for the expenses of an emergency response, as defined, to search for or rescue the person or any passengers, and the removal of any inoperable vehicle. The bill would also make a person who drives a vehicle on a flooded public street or highway, as specified, liable for the expenses of any emergency response. The bill would *increase the limit of liability for the expense of an emergency response* to \$12,000 per incident.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 53155 of the Government Code is*  
2 *amended to read:*

3 53155. In no event shall a person's liability under this article  
4 for the expense of an emergency response exceed ~~one thousand~~  
5 ~~dollars (\$1,000)~~ *twelve thousand dollars (\$12,000)* for a particular  
6 incident.

7 SEC. 2. Section 53159 is added to the Government Code, to  
8 read:

9 53159. (a) As used in this section, the following terms have  
10 the following meanings:

11 (1) "Expenses of an emergency response" means those  
12 reasonable and necessary costs directly incurred by public  
13 agencies, for-profit entities, or not-for-profit entities that make an  
14 appropriate emergency response to an incident, and include the  
15 cost of providing police, firefighting, search and rescue, and  
16 emergency medical services at the scene of an incident, and  
17 salaries of the persons who respond to the incident, but does not  
18 include charges assessed by an ambulance service.

19 (2) "Public agency" means the state and any city, county,  
20 municipal corporation, or other public authority that is located in  
21 whole or in part in this state and that provides police, firefighting,  
22 medical, or other emergency services.

23 (b) Any person who intentionally, knowingly, and willfully  
24 enters into any area that is closed or has been closed to the public  
25 by competent authority for any reason, *or an area that a*  
26 *reasonable person under the circumstances should have known*  
27 *was closed to the public*, is liable for the expenses of an emergency  
28 response required to search for or rescue that person, or if the  
29 person was operating a vehicle, any of his or her passengers, plus  
30 the expenses for the removal of any inoperable vehicle. Posting a  
31 sign, placing a barricade, a restraining or retaining wall, roping off  
32 an area, or any other device is sufficient indication that an area is  
33 closed to the public due to danger of injury, for the public's safety,  
34 or for any other reason.

(c) A person who drives a vehicle on a public street or highway that is temporarily covered by a rise in water level, including groundwater or overflow of water, and that is barricaded by any of the means described in subdivision (b), because of flooding, is liable for the expenses of any emergency response that is required to remove from the public street or highway, the driver, or any passenger in the vehicle that has become inoperable on the public street or highway, or the vehicle that has become inoperable on the public street or highway.

(d) Unless otherwise provided by law, this section shall apply to all persons, ~~including a parent or parents whose minor child or children violated subdivision (b) or (c),~~ regardless of whether the person is on foot, on skis or snowshoes, or is operating a motor vehicle, bicycle, vessel, watercraft, raft, snowmobile, all-terrain vehicle, or any other boat or vehicle of any description.

(e) This section shall not apply to any person who is authorized by the landowner, lessor, or manager of the closed area, to be in the closed area, and further shall have no application to any federal, state, or local government official who is in the closed area as part of his or her official duty, *nor to any public utility performing services consistent with its public purpose*, nor to any person acting in concert with a government authorized search or rescue. *A person who was attempting to rescue another person or an animal shall not be liable for expenses of an emergency response under this section.*

(f) Expenses of an emergency response are a charge against the person liable for those expenses pursuant to subdivision (b) or (c). The charge constitutes a debt of that person and may be collected proportionately as specified in subdivision (g). The debt shall apply only to the person who intentionally, knowingly, and willfully enters the closed area, and not to his or her family, heirs, or assigns. The parent or parents of a minor child who has violated subdivision (b) or (c) may be responsible for the debt.

(g) The debt may be collected proportionately by the public agencies, for-profit entities, and not-for-profit entities that incur the expenses. ~~The person's liability for expenses of an emergency response shall not exceed twelve thousand dollars (\$12,000) for a single incident.~~ The liability imposed under this section shall be in addition to, and not in limitation of, any other liability, fines, or fees that are imposed by law.

- 1 (h) An insurance policy may exclude coverage for a person's
- 2 liability for expenses of an emergency response.

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